

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
DIVISION OF JUDGES
NEW YORK BRANCH OFFICE**

DIGNITY HEALTH, d/b/a ST. ROSE DOMINICAN HOSPITALS

and

Case No. 28-CA-94717

MICHAEL S. DELA PAZ, An Individual

Nathan Higley, Esq., Counsel for the General Counsel.

James Winkler, Esq., Littler Mendelson, P.C., Counsel for the Respondent.

DECISION

Statement of the Case

Joel P. Biblowitz, Administrative Law Judge: This case was heard by me on August 6, 2013 in Las Vegas, Nevada. The Complaint herein, which issued on April 30, 2013 and was based upon an unfair labor practice charge and an amended charge filed by Michael Dela Paz, an individual, on December 11, 2012¹ and January 22, 2013, alleges that since June 11 Dignity Health, d/b/a St. Rose Dominican Hospitals, herein the Respondent, has maintained an overly broad and discriminatory rule prohibiting employees at its Sienna facility from discussing discipline Respondent issued to them. It is further alleged that from June 11 until about July 3, Dela Paz engaged in protected concerted activities with other employees by circulating a petition at its facility requesting employees to complain about a co-worker being rude to them, by soliciting letters from other employees and by asking them to sign a petition about the actions of this co-worker, and that he engaged in these activities at the request of the Union. The Complaint also alleges that on about June 28, Respondent by Lee Timothy, the Director of the EVS Department, and an admitted supervisor and agent of the Respondent, threatened employees with discharge for engaging in concerted activities, that on about July 3, Respondent, by Brad Duda, the manager of the EVS Department, and also an admitted supervisor and agent of the Respondent, promulgated and enforced an overly broad and discriminatory rule prohibiting its employees from engaging in certain protected concerted activities, and on about July 3, Respondent discharged Dela Paz for engaging in Union activities and protected concerted activities, in violation of Section 8(a)(1) and (3) of the Act.

I. Jurisdiction and Labor Organization Status

Respondent admits and I find that it has been an employer engaged in commerce within the meaning of Section 2(2), (6) and (7) of the Act and a healthcare institution within the meaning of Section 2(14) of the Act, and that Service Employees International Union Local 1107, herein the Union, has been a labor organization within the meaning of Section 2(5) of the Act.

¹ Unless indicated otherwise, all dates referred to herein relate to the year 2012.

II. The Facts

Stated briefly, Dela Paz, a maintenance employee at the hospital, had a disagreement with Habiba Araru, a/k/a “Mustah” a cashier at the hospital cafeteria. As a result of this disagreement, Dela Paz was suspended for five days without pay, although there is no allegation that this suspension violated the Act. After being suspended, Dela Paz approached employees at the hospital and asked them to sign a petition if Araru had been rude to them or to other employees, and he gave this petition to Araru’s supervisor and was discharged.

Dela Paz has been employed by the Respondent as an environmental service tech employee (a housekeeping employee) since March 2007. He is a member of the Union, which represents that unit, and works the 11:00 P.M. to 7:30 A.M. shift. His direct supervisor is Eddie Aguilar; his manager is Brad Duda. There was an incident involving Dela Paz and Araru on June 1, according to Duda’s testimony; Dela Paz testified that there was also a second incident on June 4. Duda testified that he was notified of the incident by the security supervisor shortly after June 1, and was given a statement about the incident prepared by Araru. The statement states that when Dela Paz went to pay for his food, Araru told him that as he had two entrees she would have to charge him for them, but that she didn’t want him to think that she was overcharging him. He replied, “I’ve already reported you and I’ll take care of you.” She also told the security department that she was concerned for her safety and would like more security in the area. Duda discussed the situation with Timothy, his supervisor, and they decided that Dela Paz would be put on administrative leave while they conducted a further investigation, and Duda called Dela Paz and told him that he was being placed on administrative leave. Duda testified that he also notified the Union that Dela Paz was being put on administrative leave.

A meeting was held on June 12 with Duda, Dela Paz, Pam Bylekie, a supervisor of operators and transporters, and Debbie Miller a Union representative. At this meeting, Dela Paz gave him a petition dated June 11, stating:

Signature Campaign in Support of Mhike Sanchez

If at one time or another you had ever had an encounter with Mustah, the cashier...if she had ever been rude to you or if perhaps you had observed that she has treated someone else with disrespect or a sullen attitude, kindly sign your name on the attached paper in support of my signature campaign.

There were seventeen employee signatures attached to the petition. In addition, Dela Paz gave him statements written by three employees, none of whom witnessed the incident. The first heard only a loud noise, the second was critical of Araru’s attitude and rudeness, and the third spoke of what a nice person Dela Paz was. Duda looked over these documents and told Dela Paz that he would retroactively count the administrative leave as a suspension, and that Dela Paz could return to work, and Bylekie and Miller agreed. He also told Dela Paz that the matter was closed, “...and that the expectation was that he would not retaliate and that as long as he didn’t do so, he would remain in good standing and be employed.” Dela Paz was given an Employee Counseling Report that day stating that he had been suspended for seven days without pay because Araru felt threatened and harassed by his statements. It further states that he was given copies of the Respondent’s policies re Harassment in Workplace, Workplace Conduct, Zero Tolerance of Workplace Violence and Standards of Conduct, and that he was “...to strictly adhere to these policies with 100% compliance.” Attached to the Employee Counseling Report was an Action Plan that Dela Paz was required to follow. One item listed states: “Employee will not retaliate against co-workers when information or feedback given. There will be ZERO tolerance for any perceived retaliation against co-workers.”

Dela Paz testified that he ate at the cafeteria three times a day, five days a week, where he often encountered Araru. His job included cleaning and sweeping the floors in the cafeteria, and on June 1 he saw her cleaning the tables in the cafeteria, and dropping the ketchup packets on the floor. He asked her if she could pick them up and she said that wasn't her job. Later that evening he told Aguilar about what occurred and on the following morning he told Duda about the incident, and Duda said that he would discuss it with Aguilar. On June 4 he went to pay for some food that he had chosen, rice and hot dogs, and Araru said, "You Filipinos don't know how to eat, hot dogs go with bread, not rice." Dela Paz, who is Filipino, was upset, but only said, "Whatever is on my plate I'm paying for" and walked away. Later that evening he told Aguilar about the incident, and Aguilar told him to just do his job, not to worry about it. On the morning of June 5 he received a telephone call from Duda, who told him not to report for work, and not tell the Union, or his friends at the hospital, and he would contact him when to return, but he never gave him a reason for the suspension. On June 7, Duda sent an email to Timothy notifying him that Dela Paz would be on administrative leave pending the conclusion of an investigation into the incident. The email concluded:

Michael was also instructed that he was not to contact any hospital employees during his administrative leave. I asked Michael if he understood my instructions regarding his administrative leave and not contacting any hospital employees and he said that he did and would follow them.

Dela Paz testified further that he went to the collective bargaining session on June 5 where he told Union representative Debbie Miller about his suspension and she said that she was unaware of it. There was a meeting at the hospital with Dela Paz, Duda, Lee and Cherie Mancini, the Union steward. Brad Wild, Araru's supervisor, participated by phone. They spoke about his incident with Araru and he was told that he was being suspended for threatening and harassing Araru. He testified that during this meeting, Timothy told him to obtain statements from people who witnessed the event. Mancini, who is employed by the Respondent as a senior operating room buyer and is a Union steward, testified that a few days after June 4, while she was at work, Dela Paz told her that he had been disciplined over the incident with Araru, and he asked her what he could do to defend himself against the charges and she told him to obtain statements from people who witnessed the incident.

On June 16, Wild, Araru's supervisor, was approached by Dela Paz, who told him of his suspension due to the incident with Araru. Dela Paz then gave Wild the same petition that he had given Duda on June 12, but this one was signed by twenty eight employees, eleven more than the earlier one. Wild told Dela Paz that he would make sure that Duda and Timothy were given this petition. Wild sent an email to Timothy and Duda stating that on June 13, a unit manager of Respondent gave him a copy of Dela Paz' earlier petition signed by seventeen employees, stating that she found it on the nurses' station, and on July 16, Dela Paz approached him and gave him a petition that had more signatures than then earlier petition. Duda determined that by giving Wild this petition with the added signatures, Dela Paz violated the no retaliation provision contained in the Action Plan that was given to him on June 12, as well as the no contact with other employees restriction and, therefore, he should be terminated. He testified that the petition was a concern to him, "Because he continued to circulate the petition and violate the Action Plan." He testified further: "Moving forward with it, gaining additional signatures, I didn't tell him specifically that, but I would consider any...additional activity on his part in the like manner to be a violation." He considers retaliation any soliciting or trying to get the other employee in trouble and he considered Dela Paz' approaching Wild with the petition to be retaliation because, "He was trying to get the other employee in trouble or trying to provide information to cause trouble for the other employee." In attempting to explain

this situation further, Duda testified that “..The appropriate chain of command...to resolve these issues is first to go to your immediate supervisor...and allow supervisors to bring these things to each other’s attention and come up with a resolution.” Going to someone else’s supervisor constitutes retaliation. He, along with Timothy and Scott Fuller, from Human Resources,
5 determined that Dela Paz would be terminated:

Q And that was prompted by your conversation with Mr. Wild?

A It was prompted by the interaction from, between, Mr. Wild and Mr. Dela Paz.

Q And by the petition? Is that correct?

A I was strictly focusing on the fact that he was approached by Mr. Dela [Paz]...that Mr. Wild was approached by Mr. Dela Paz.

Q Was the petition a factor?

A In his termination?

Q Yes.

A No.

Dela Paz was terminated at a meeting on July 3. Present at this meeting were Dela Paz, Duda, Miller and Mancini, as was LeRoy Walker, from Respondent’s Human Resources Department. Duda was again asked why Dela Paz was terminated:

A I mean, I terminated him based off of his approaching Mr. Brad Wild.

Q Okay. And that’s it?

Judge Biblowitz: As far as you were concerned?

A As far as I’m concerned, that was the grounds for moving forward with that, yes...

Q And was it limited to just Mr. Dela Paz’s interaction with Brad Wild?

A We were concerned about the fact that the document continued to circulate, but it was not until he went to Brad Wild that we considered his actions crossing the line.

Q Had he not gone to Brad Wild, then he would not have been terminated?

A He would not have been.

At the July 3 meeting Dela Paz was given another Employee Counseling Report, this one stating that he was being terminated. The Report refers to the earlier Action Plan and states:

One expectation of the action plan outlined zero tolerance for any retaliation against the employee with whom he had an altercation. Mr. Dela Paz has failed to meet this expectation. Since returning from his suspension, he has continued to actively pursue measures to have the other employee disciplined. He has approached coworkers and management alike in an attempt to smear the reputation of the other employee and try to

get her fired. Such actions demonstrate an unwillingness to follow the simple expectations of the action plan and represents blatant insubordination. Mr. Dela Paz is apparently unwilling to meet the conditions required of him for his continued employment with SRDH.

5 Dela Paz testified that after his suspension he continued getting signatures on his petition because he “wanted to find the true story.” He obtained these signatures from hospital employees by learning from other employees who was having problems with Araru at the cafeteria and he approached these employees with his petition. He testified that he gave this
10 updated petition to Timothy on June 18 while Timothy was in his office and Timothy told him that if he accepted the petition, Dela Paz might be fired. He gave it to him and walked away. On July 3, Timothy told him to come to his office at 1:00. In addition to Timothy, Duda, Walker, Miller and Mancini were present, as were two security guards. He testified that Duda told him that he was terminated because he left a copy of the petition at a copy machine at the facility, which
15 violates HIPPA.² However, when he was then asked if Duda explained the reason for his discharge, he testified, “Because I gave it to...Brad Wild...” The security guards then escorted him out of the building.

III. Analysis

20 In making my findings herein, I have discounted some of Dela Paz’ testimony, not because I found his testimony to lack credibility, but because he appeared to make some obvious errors in his testimony. For example, he testified that Timothy told him to obtain signatures from employees supporting his version of the incident with Araru. However, as
25 Mancini testified, the more logical testimony is that she told him to obtain the signatures. In addition, Dela Paz testified that Duda told him that he was being terminated for violating HIPPA rules. Duda impressed me as a very savvy manager, and I find it unlikely that he would use that as an reason for terminating a maintenance employee. On the other hand, I found Duda to be a generally credible witness, albeit one who had difficulty admitting that it was the petition, not the
30 fact that Wild was the recipient of it, that was the cause of the termination. However, this was clearly established by documentary and other evidence.

The initial allegation herein is that since about June 11 the Respondent has maintained an overly broad and discriminatory rule prohibiting employees at the facility from discussing
35 discipline that the Respondent had issued to them. This relates to the warning that Duda gave to Dela Paz on June 12 that he would count the administrative leave as the suspension, but “...the expectation was that he would not retaliate [against Araru] and that as long as he didn’t do so, he would remain in good standing and be employed.” He also told Dela Paz not to contact any hospital employees during his leave. In addition, the Action Plan that was attached
40 to the Employee Counseling Report said pretty much the same thing: “Employee will not retaliate against co-workers when information or feedback given. There will be ZERO tolerance for any perceived retaliation against co-workers.” It is alleged that Duda’s statements to him and that the similar restriction contained in the Action Report, violate Section 8(a)(1) of the Act. Further, it is similarly alleged that on about July 3, the Respondent, by Duda, has promulgated
45 and enforced an overly broad and discriminatory rule prohibiting its employees from engaging in the protected concerted activities by enlisting the assistance of their fellow employees to protect

50 ² Duda testified that he never told Dela Paz on July 3 that his conduct was a violation of HIPPA.

their employment rights. These activities are alleged to violate Section 8(a)(1) of the Act.

Although Duda's warning, the Action Report and the Counseling Report are vague in that they prohibit retaliation, later events (Dela Paz' termination) make clear that the term retaliation was meant to include petitioning his fellow employees to support him against the allegations of Araru, and his suspension; in other words, his ability to engage in concerted activities. In addition, Duda's June 7 email to Timothy states that he told Dela Paz not to contact any hospital employee during his leave. In *Consolidated Diesel Co.*, 332 NLRB 1019, 1020 (2000), the Board stated: "The Board has long held that legitimate managerial concerns to prevent harassment do not justify policies that discourage the free exercise of Section 7 rights by subjecting employees to investigation and possible discipline on the basis of the subjective reactions of others to their protected activity." See also, *Hispanics United of Buffalo, Inc.*, 359 NLRB No. 37 (2012). *Keller Ford, Inc.* 336 NLRB 722 (2001), presented a similar fact pattern. In that case, the charging party was unhappy with the timing of the increase in the employer's copayment for his life and disability insurance, and complained to his supervisor about it. When the charging party said that he would discuss it with other employees, the supervisor told him: "Don't go getting everybody riled up about this. It could be hazardous to your health." Finding that this statement would reasonably tend to interfere with the employee's free exercise of his right under Section 7 to discuss his concerns regarding terms and conditions of employment with fellow employees, the Board found that this statement violated Section 8(a)(1) of the Act. Further, in *KSL Claremont Resort, Inc.* 344 NLRB 832 (2005), the Board stated:

We find that the rule's prohibition of "negative conversations" about managers would reasonably be construed by employees to bar them from discussing with their coworkers complaints about their managers that affect working conditions, thereby causing employees to refrain from engaging in protected activities.

The same is true in the instant matter. Telling Dela Paz not to contact other employees clearly violates the Act; telling him not to retaliate, could have a few meanings, some lawful, some not, but later events established that it was restricting his Section 7 rights to obtain the support of his fellow employees, in violation of Section 8(a)(1) of the Act.

The final allegation is that Dela Paz was terminated in violation of the Act for a number of reasons: (1) that he was terminated for engaging in the protected concerted actions of petitioning his fellow employees to assist him in the incident involving Araru, in violation of Section 8(a)(1) of the Act; (2) that he was terminated for violating the "no retaliation rule" set forth above which I have found violates Section 8(a)(1) of the Act, also allegedly in violation of Section 8(a)(1) of the Act; and (3) that he was terminated for following the Union's advice in obtaining signatures supporting his position regarding the incident with Araru, in violation of Section 8(a)(1)(3) of the Act.

In *Holling Press, Inc.*, 343 NLRB 301, 302 (2004), the issue was whether the charging party was engaged in activity encompassed by Section 7 of the Act. The Board discussed *Meyers I* and *Meyers II*³ and stated:

In order for employee conduct to fall within the ambit of Section 7, it must be both concerted and engaged in for the purpose of "mutual aid or protection." These are

³ *Meyers Industries*, 268 NLRB 493 (1984), and *Meyers Industries*, 281 NLRB 882 (1986).

related but separate elements that the General Counsel must establish in order to show a violation of Section 8(a)(1).

Although individual action will be considered concerted if “the concerns expressed by the individual are a logical outgrowth of the concerns expressed by the group,” *Mike Yurosek & Son*, 306 NLRB 1037, 1038 (1992), employees who are pursuing a personal claim, even with the support of fellow employees, do not enjoy the protection of Section 7 of the Act.⁴ In the situation herein, Dela Paz was pursuing a purely personal claim regarding the incident with Araru and his fear of discipline. No other employee was involved in the dispute. The participation of the other employees was simply to affirm that, at some point, Araru had been rude to them or that they had observed her showing disrespect to someone else. The dispute was solely between Dela Paz and the Respondent. The Board, in *Holling Press, supra*, dismissed the Complaint finding that although the charging party’s actions were concerted, they were “personal” to her and therefore not for mutual aid or protection. The Board stated that she “...chartered a course of action with only one person in mind- Fabozzi herself. To begin with, Fabozzi’s complaint was individual in nature...[with a] purpose to advance her own cause.” Similarly, I find that Dela Paz’ dispute with the Respondent was strictly personal, and that the support of his fellow employees did not convert it to activities protected by Section 7 of the Act.

It is next alleged that the discharge of Dela Paz violated Section 8(a)(1) of the Act because he was fired for violating Duda’s “no retaliation” rule, and the rule forbidding him from talking to other employees. Board law is clear that the imposition of discipline pursuant to an unlawfully overbroad policy or rule constitutes a violation of the Act. I have found that Duda’s no talking to other employees during his suspension, and the no retaliation rule are overly broad and unlawful. By firing Dela Paz for violating these rules, by obtaining additional signatures on his petition, the Respondent violated Section 8(a)(1) of the Act. *Double Eagle Hotel & Casino*, 341 NLRB 112 (2004); *Northeastern Land Services*, 352 NLRB 744 (2008).

It is further alleged that the discharge of Dela Paz on July 3 also violates Section 8(a)(1)(3) of the Act. In some situations, a Section 8(a)(1) discharge will also violate Section 8(a)(3) of the Act where union activity was involved. *Stephens Media, LLC*, 356 NLRB No. 63 (2011). I find that this is not one of those situations. Although Mancini recommended that he obtain statements from employees who witnessed the incident with Araru, the statements and petition that he obtained talks about his good character and her rudeness; apparently, none of the employees who signed the petition witnessed the incident. In addition, there is no evidence that the Respondent had any knowledge of the advice that Mancini gave to him. I therefore recommend that the Section 8(a)(1)(3) allegation herein be dismissed.

The remaining allegation is that Respondent, by Timothy, threatened employees with discharge for engaging in concerted activities. This allegation is supported by Dela Paz’ testimony that when he gave the updated petition to Timothy on June 18, Timothy told him that if he accepted the petition, Dela Paz might be fired. As I have found that Dela Paz’ petition was personal in nature, and did not constitute protected concerted activities, I recommend that this allegation be dismissed.

⁴ *Gartner-Harf Co.*, 308 NLRB 531 fn. 1 (1992).

Conclusions of Law

1. Respondent has been an employer engaged in commerce within the meaning of Section 2(2), (6) and (7) of the Act and has been a health care institution within the meaning of Section 2(14) of the Act.

2. The Union has been a labor organization within the meaning of Section 2(5) of the Act.

3. Since on or about June 11 and July 3, Respondent has maintained an overly broad and discriminatory rule prohibiting its employees from engaging in protected concerted activities and from discussing discipline issued to them in violation of Section 8(a)(1) of the Act..

4. The Respondent violated Section 8(a)(1) of the Act by discharging Dela Paz on about July 3, for violating the overly broad and discriminatory rule described above, when he continued to ask fellow employees to sign a petition supporting him in a dispute that he had with the Respondent.

5. The Respondent did not further violate the Act as alleged in the Complaint.

The Remedy

The Respondent having discriminatorily discharged Dela Paz, it must offer him reinstatement and make him whole for any loss of earnings and other benefits, computed on a quarterly basis from date of discharge to date of a proper offer of reinstatement, less any net interim earnings, as prescribed in *F. W. Woolworth Co.*, 90 NLRB 289 (1950), plus interest as computed in *New Horizons for the Retarded*, 283 NLRB 1173 (1987), compounded daily as prescribed in *Kentucky River Medical Center*, 356 NLRB No. 8 (2010), enf. denied on other grounds sub.nom., *Jackson Hospital Corp. v. NLRB*, 647 F. 3d 1137 (D.C. Cir. 2011). I shall also order the Respondent to file a special report with the Social Security Administration allocating Vega's backpay to the appropriate calendar quarters and to compensate him for any adverse income tax consequences of receiving his backpay in one lump sum. I also recommend that Respondent be ordered to notify Dela Paz that it has rescinded the overly broad and discriminatory rule wherein it prohibited him from contacting other employees to support him in his dispute with the Respondent, and that it will not enforce it against him when he returns to work.

Upon the foregoing findings of fact, conclusions of law and on the entire record, I hereby issue the following recommended⁵

ORDER

The Respondent, Dignity Health, d/b/a St. Rose Dominican Hospitals, its officers,

⁵ If no exceptions are filed as provided by Sec. 102.46 of the Board's Rules and Regulations, the findings, conclusions, and recommended Order shall, as provided in Sec. 102.48 of the Rules, be adopted by the Board and all objections to them shall be deemed waived for all purposes.

agents, successors and assigns, shall:

1. Cease and desist from

(a) Maintaining an overly broad and discriminatory rule prohibiting its employees from engaging in protected concerted activities and from discussing discipline issued to them.

(b) Discharging or otherwise discriminating against its employees for violating overly broad and discriminatory rules restricting employees in their rights to engage in protected concerted activities within the meaning of Section 7 of the Act.

(c) In any like or related manner interfering with, restraining or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act:

(a) Offer Michael Dela Paz full and immediate reinstatement to his former job or, if that job no longer exists, to a substantially equivalent position, without prejudice to his seniority or any other rights and privileges previously enjoyed, and make him whole for any loss of earnings and other benefits suffered as a result of the discrimination against him in the manner set forth in the remedy section of this decision.

(b) Notify Dela Paz that it will no longer restrict his right to discuss his discipline with other employees, or otherwise restrict his right to engaged in protected concerted activities.

(c) File a special report with the Social Security Administration allocating Dela Paz' backpay to the appropriate calendar quarters and compensate him for any adverse income tax consequences of receiving his backpay in one lump sum, as prescribed in *Latino Express, Inc.*, 359 NLRB No. 44 (2012).

(d) Within 14 days from the date of the Board's Order, remove from its files any reference to the unlawful discharge of Dela Paz, and within 3 days thereafter notify him, in writing, that this has been done and that the discharge will not be used against him in any way.

(e) Preserve and, within 14 days of a request, or such additional time as the Regional Director may allow for good cause shown, provide at a reasonable place designated by the Board or its agents, all payroll records, social security payment records, timecards, personnel records and reports, and all other records, including an electronic copy of such records if stored in electronic form, necessary to analyze the amount of backpay due under the terms of this Order.

(f) Within 14 days after service by the Region, post at its facility in Henderson, Nevada copies of the attached notice marked "Appendix."⁶ Copies of the notice, on forms provided by the Regional Director for Region 28, after being signed by the Respondent's authorized

⁶ If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

representative, shall be posted by the Respondent and maintained for 60 consecutive days in conspicuous places including all places where notices to employees are customarily posted. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material. In the event that, during the pendency of these proceedings, the Respondent has gone out of business or closed the facility involved in these

5 proceedings, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by the Respondent at any time since June 11, 2012.

10 (g) Within 21 days after service by the Region, file with the Regional Director a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

15 **IT IS FURTHER ORDERED** that the Complaint is dismissed insofar as it alleges violations of the Act not specifically found.

Dated, Washington, D.C. September 23, 2013

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Joel P. Biblowitz
Administrative Law Judge

APPENDIX
NOTICE TO EMPLOYEES

Posted by Order of the
National Labor Relations Board
An Agency of the United States Government

The National Labor Relations Board has found that we violated Federal labor law and has ordered us to post and obey this Notice.

FEDERAL LAW GIVES YOU THE RIGHT TO

Form, join, or assist a union
Choose representatives to bargain with us on your behalf
Act together with other employees for your benefit and protection
Choose not to engage in any of these protected activities

WE WILL NOT maintain or enforce an overly broad and discriminatory rule prohibiting you from engaging in protected concerted activities or from discussing with other employees discipline that was issued to you.

WE WILL NOT discharge or otherwise discriminate against any of you for violating overly broad and discriminatory rules restricting your right to engage in protected concerted activities, and **WE WILL NOT** in any like or related manner interfere with, restrain or coerce you in the exercise of the rights guaranteed you by Section 7 of the Act

WE WILL offer Michael Dela Paz immediate and full reinstatement to his former job or, if that job no longer exists, to a substantially equivalent position without prejudice to his seniority or other rights and privileges previously enjoyed, and **WE WILL** make him whole for any loss of earnings and other benefits resulting from his discharge, together with interest.

WE WILL within 14 days from the date of this Order, remove from our files any reference to the discharge of Dela Paz, and **WE WILL**, within 3 days thereafter, notify him that this has been done and that the discharge will not be used against him in any way.

WE Will rescind the rule that we established on about June 11 and July 3 unlawfully restricting Michael Dela Paz' ability to engage in protected concerted activities, and **WE WILL** notify him that this has been done.

DIGNITY HEALTH, d/b/a ST. ROSE DOMINICAN HOSPITALS
(Employer)

Dated _____ **By** _____
(Representative) **(Title)**

The National Labor Relations Board is an independent Federal agency created in 1935 to enforce the National Labor Relations Act. It conducts secret-ballot elections to determine whether employees want union representation and it investigates and remedies unfair labor practices by employers and unions. To find out more about your rights under the Act and how to file a charge or election petition, you may speak confidentially to any agent with the Board's Regional Office set forth below. You may also obtain information from the Board's website: www.nlr.gov.

2600 North Central Avenue, Suite 1400
Phoenix, Arizona 85004-3099
Hours: 8:15 a.m. to 4:45 p.m.
602-640-2160.

THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED BY ANYONE

THIS NOTICE MUST REMAIN POSTED FOR 60 CONSECUTIVE DAYS FROM THE DATE OF POSTING AND MUST NOT BE ALTERED, DEFACED, OR COVERED BY ANY OTHER MATERIAL. ANY QUESTIONS CONCERNING THIS NOTICE OR COMPLIANCE WITH ITS PROVISIONS MAY BE DIRECTED TO THE ABOVE REGIONAL OFFICE'S COMPLIANCE OFFICER, 602-640-2146.